

# STATE OF NEW YORK

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8270

## IN SENATE

April 25, 2018

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Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the civil service law, in relation to the negotiability of discipline affecting public employees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and declarations. The legislature  
2 hereby finds, declares and reaffirms that the 1967 Public Employees'  
3 Fair Employment Act establishes that the public policy of the state, and  
4 the purpose of the act, is to promote harmonious and cooperative  
5 relationships between government and its employees and to protect the  
6 public by assuring, at all times, the orderly and uninterrupted opera-  
7 tion and functions of government. Included among the policies adopted  
8 was the requirement that the state, local governments, and other poli-  
9 tical subdivisions negotiate and enter into agreements with employee  
10 organizations about terms and conditions of employment. Over the many  
11 years subsequent to the enactment of such act, the negotiability of  
12 discipline, including disciplinary procedures, has been fully endorsed  
13 by the public employment relations board and disciplinary procedures  
14 have been incorporated into collective bargaining agreements throughout  
15 the state. The legislature now declares that this practice of negotiat-  
16 ing fair disciplinary protections and procedures for public employees  
17 must continue.

18 A recent court of appeals' decision involving police officers in the  
19 city of Schenectady has erroneously declared that the "public policy" of  
20 the state is to prohibit absolutely the negotiation of disciplinary  
21 procedures in certain places where there exist legislative enactments on  
22 the subject of discipline. The legislature declares a necessity for the  
23 enactment of this act to ensure that discipline, including disciplinary  
24 procedures, will continue as a mandatory subject of collective negoti-  
25 ation, and that collective bargaining agreements addressing that subject  
26 remain valid and enforceable and to enhance the prohibition against  
27 strikes and the protection against the destruction of vital public  
28 services delivered by public employees throughout the state.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD15564-01-8

1 § 2. Subdivision 4 of section 201 of the civil service law, as amended  
2 by chapter 606 of the laws of 1992, is amended to read as follows:

3 4. The term "terms and conditions of employment" means salaries,  
4 wages, hours, discipline, disciplinary procedures including alternatives  
5 to any statutory disciplinary system, provided, however, that any right  
6 of a public employee under the terms of any state law to elect coverage  
7 under either a statutory disciplinary system or a disciplinary system  
8 established by collective negotiations shall not be impaired, unless any  
9 such state law authorizes exclusivity of a negotiated disciplinary  
10 system and provided further that no provision contained in the town law,  
11 general city law, second class cities law, general municipal law, munic-  
12 ipal home rule law, county law, or other state, local, special law or  
13 charter provision or this chapter shall prevent or impair the right to  
14 collective bargaining for or to modify disciplinary procedures, and  
15 other terms and conditions of employment provided, however, that such  
16 term shall not include any benefits provided by or to be provided by a  
17 public retirement system, or payments to a fund or insurer to provide an  
18 income for retirees, or payment to retirees or their beneficiaries. No  
19 such retirement benefits shall be negotiated pursuant to this article,  
20 and any benefits so negotiated shall be void.

21 § 3. Section 204-a of the civil service law is amended by adding a new  
22 subdivision 4 to read as follows:

23 4. The terms of any current or expired agreement or interest arbi-  
24 tration award between any public employer and any public employee organ-  
25 ization relating to the discipline of any public employees shall be  
26 deemed valid and enforceable from the effective date of this subdivi-  
27 sion.

28 § 4. This act shall take effect immediately.